

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MARIO ALCON, GEREMIAS ALCON,
SECILIA ALCON, MAURA ALCON,
MARLENY ALCON, and HUGO
ALCON,

Plaintiffs,

v.

ASPLUNDH TREE EXPERT, LLC,
SEAN DOUGLAS BALLMERRE, and
GREENWICH INSURANCE COMPANY,

Defendants.

CIVIL ACTION FILE

PETITION FOR REMOVAL

COME NOW defendants Asplundh Tree Expert, LLC (“Asplundh”) and Greenwich Insurance Company (“Greenwich,” and collectively referred to as “defendants”), by and through undersigned counsels, pursuant to 28 U.S.C. § 1446 and 28 U.S.C. § 1332, and hereby remove the above-styled action from the Superior Court of Gwinnett County, Georgia based on the following grounds:

1.

On or about March 29, 2022, plaintiffs Mario Alcon, Geremias Alcon, Secilia Alcon, Maura Alcon, Marleny Alcon, and Hugo Alcon (“plaintiffs”) filed suit against the above-named defendants in the Superior Court of Gwinnett County,

Georgia, Civil Action File Number 22-C-01817-S5. Defendants were served with the Complaint on May 1, 2022. A copy of all process, pleadings and orders filed in this action are attached hereto as Exhibit “A.”

2.

By information and belief, plaintiffs are citizens of Georgia.

3.

By information and belief, Ballmerre is a citizen of Michigan.

4.

Asplundh is a citizen of Pennsylvania and Delaware as its members are from Pennsylvania and Delaware.

5.

Asplundh’s members are:

- a. Asplundh Tree Expert Holding Co., a Pennsylvania corporation with its principal place of business in Pennsylvania;
- b. Gorilla Investor, LLC, a Delaware limited liability company with its principal place of business in Delaware. Gorilla Investor, LLC is wholly owned by and its sole member is Gorilla Holdco, Inc., a Delaware corporation with its principle place of business in Delaware;
- c. CP Arbor Holdings, L.P., a Delaware limited partnership. CP Arbor Holdings, L.P. maintains its principal place of business in Delaware and,

upon information and belief, none of its partners are citizens of the State of Georgia;

d. CGLA, Inc., a Delaware corporation with its principal place of business in Delaware.

6.

Greenwich is a citizen of Delaware and Connecticut as it is incorporated in Delaware and its principal place of business is in Connecticut. Greenwich's Annual Registration is attached hereto as Exhibit "B."

7.

Per paragraph 27 of plaintiff's complaint for damages, the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. (Exhibit A, ¶ 27.)

8.

As such, defendants may remove this action to this Court pursuant to 28 U.S.C. § 1332(a)(1) as there is complete diversity between plaintiffs and defendants.

9.

At the time of removal, Defendant Ballmerre has not been served with the Complaint.

10.

This petition for removal is filed within 30 days of the defendant's receipt of

the complaint and is timely pursuant to 28 U.S.C. § 1446(b)(3).

11.

Pursuant to 28 U.S.C. § 90(a)(2), the United States District Court for the Northern District of Georgia, Atlanta Division, is the district court having jurisdiction over the geographical area where the state court action is pending. Pursuant to 28 U.S.C. § 1446(a), the defendants are entitled to remove this action from the Superior Court of Gwinnett County to this Court.

12.

Defendants have given written notice of the filing of this notice to plaintiff and the Clerk of the Superior Court of Gwinnett County, a copy of which is attached hereto as Exhibit “C.”

13.

The undersigned have read this notice of removal, and to the best of the undersigned’s knowledge, information, and belief, formed after reasonable inquiry, it is well grounded in fact; is warranted by existing law or an extension or modification of existing law; and is not interposed for any improper purposes, such as to harass or cause unnecessary delay or needless increase in the cost of this litigation.

14.

Based on the foregoing, these defendants request that this Court allow the

requested removal and assert jurisdiction over the state court action.

This 2nd day of May, 2022.

FREEMAN MATHIS & GARY, LLP

/s/ Matthew Boyer

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CERTIFICATE OF COMPLIANCE

I hereby certify that this document has been prepared using Times New Roman, 14-point font, and that this document otherwise complies with Local Rule 5.1(C).

This 2nd day of May, 2022.

FREEMAN MATHIS & GARY, LLP

/s/ Matthew F. Boyer

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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically submitted the foregoing PETITION FOR REMOVAL to the Clerk of Court using the CM/ECF system which will automatically send electronic mail notification of such filing to counsel of record who are CM/ECF participants and mailed by United States Postal Service, first-class, postage prepaid, a paper copy of the same document to counsel of record who are non-CM/ECF participants. Counsel of record is:

Chirag Patel
Norman Cuadra
CUADRA AND PATEL, LLC
296 S. Culver Street
Lawrenceville, GA 30046

This 2nd day of May, 2022.

FREEMAN MATHIS & GARY, LLP

/s/ Matthew F. Boyer

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